

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

KIMBEL DOUGLAS,

Plaintiff,

v.

CASE NO:
HON:

OAKLAND COUNTY, ERIN ALLEN, JOSHUA SWALWELL, RICHARD RACKLEY, JORDAN MAY, EMILY ROOT, and JONATHAN ELGES, in their individual and official capacities,

Defendants.

CHRISTOPHER TRAINOR & ASSOCIATES CHRISTOPHER J. TRAINOR (P42449) AMY J. DEROUIN (P70514) JONATHAN A. ABENT (P78149) Attorneys for Plaintiff 9750 Highland Road White Lake, MI 48386 (248) 886-8650 / (248) 698-3321-fax shanna.suver@cjtrainor.com amy.derouin@cjtrainor.com jon.abent@cjtrainor.com	
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THERE IS NO OTHER PENDING OR RESOLVED CIVIL ACTION ARISING OUT OF THE TRANSACTION OR OCCURRENCE ALLEGED IN THE COMPLAINT.

COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, **KIMBEL DOUGLAS**, by and through his attorneys, CHRISTOPHER TRAINOR & ASSOCIATES, and for his Complaint against the above-named Defendants states as follows:

1. Plaintiff is a resident of the City of Detroit, County of Wayne, State of Michigan.
2. Defendant OAKLAND COUNTY is a municipal corporation and governmental subdivision organized and existing under the laws of the State of Michigan.
3. Defendants ALLEN, SWALWELL, RACKLEY, MAY, ROOT, and ELGES were and/or are correctional officers and/or deputies employed by Defendant OAKLAND COUNTY and/or the Oakland County Jail and were acting under the color of law, in their individual and official capacities, and within the course and scope of their employment at all times mentioned herein.
4. All relevant events giving rise to this lawsuit occurred in the County of Oakland, State of Michigan.
5. This lawsuit arises out of Defendants' violation of Plaintiff's federal constitutional rights as secured by the Fourth and Fourteenth Amendment as they applies to the States through the Fourteenth Amendment to the United States Constitution and consequently, Plaintiff has a viable claim for damages under 42 U.S.C. § 1983.
6. Jurisdiction is vested in this Court pursuant to 28 U.S.C. § 1331 [federal question] and 28 U.S.C. § 1343 [civil rights].

7. That the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), not including interest, costs, and attorney fees.

FACTS

8. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.
9. On or about June 18, 2021, Plaintiff was arrested for misdemeanor assault by the Hazel Park Police Department.
10. On June 18, 2021, Plaintiff was transported from the Hazel Park Police Department to the Oakland County Jail.
11. While being booked into the Oakland County Jail, Plaintiff was subject to unreasonable and excessive force by the individual Defendants including, but not limited to, being slammed face-first onto the floor on two separate occasions (both in the jail hallway and in a solitary cell), being struck in the head/jaw area, and having his arms forcibly yanked at unnatural angles away from his body on two separate occasions (both in the jail hallway and in a solitary cell).
12. Plaintiff was at all relevant times compliant and non-resistant, and posed no threat to the individual Defendants nor anyone else.
13. The individual Defendants then stripped Plaintiff of his clothes and left him, naked, in a solitary cell.

14. All criminal charges against Plaintiff related to the subject incident were dismissed.
15. As a result of Defendants' unlawful actions and/or inactions, Plaintiff sustained injuries and damages.
16. That during the course of the aforementioned events, Plaintiff was a pretrial detainee.

COUNT I
42 U.S.C. § 1983
VIOLATION OF THE FOURTEENTH AMENDMENT
ALL INDIVIDUAL DEFENDANTS

17. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.
18. The Due Process Clause of the Fourteenth Amendment prevents the use of excessive physical force against pretrial detainees and imposes a duty on police/corrections officials to take reasonable measures to guarantee the safety of those under their care.
19. The individual Defendants violated Plaintiff's clearly established and federally protected rights as set forth under the United States Constitution and the Amendments thereto, including, but not limited to, the Fourteenth Amendment of the United States Constitution to be free from unreasonable searches and seizures mainly to be free from excessive use of force, when they

employed unnecessary and unreasonable force which resulted in significant injuries to Plaintiff.

20. At all relevant times herein, the individual Defendants acted under color of law, within the scope and course of their employment, and in their official and individual capacities.
21. The actions of the individual Defendants were at all times objectively unreasonable in violation of Plaintiff's clearly established rights under the Fourteenth Amendment to the United States Constitution which proximately resulted in significant injuries to Plaintiff.
22. The individual Defendants are not entitled to qualified immunity because they violated Plaintiff's clearly established Fourteenth Amendment right to be free from excessive use of force.
23. As a proximate result of the violations and/or deprivations of Plaintiff's constitutional rights by the individual Defendants, Plaintiff has a viable claim for compensatory and punitive damages pursuant to 42 U.S.C. § 1983 together with costs, interests, and attorney fees as set forth in 42 U.S.C. § 1988.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter an award in his favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of costs, interest, and attorney fees.

COUNT II
CONSTITUTIONAL VIOLATIONS
DEFENDANT OAKLAND COUNTY

24. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.
25. Defendant OAKLAND COUNTY permitted customs, practices, and/or policies which resulted in the violations of Plaintiff's constitutional rights as complained of herein.
26. These customs, practices, and/or policies included, but were not limited to, the following:
 - a. Failing to adequately train and/or supervise its corrections officers so as to prevent violations of citizens' constitutional rights;
 - b. Failing to adequately train and/or supervise corrections officers regarding the proper use of force; and
 - c. Failing to adequately supervise, review, and/or discipline corrections officers whom Defendant OAKLAND COUNTY knew or should have known were violating or were prone to violate citizens' constitutional rights, thereby permitting and/or encouraging its corrections officers to engage in unlawful conduct.
27. Defendant OAKLAND COUNTY's conduct was so reckless so as to demonstrate deliberate indifference for whether an injury resulted.

28. Defendant OAKLAND COUNTY's acts and/or indifference and/or omissions were the direct and proximate cause of Plaintiff's injuries.
29. The facts as set forth in the preceding paragraphs constitute a violation of Plaintiff's constitutional rights; and pursuant to 42 U.S.C. § 1983, Plaintiff has a viable claim for compensatory and punitive damages, costs, and attorney fees as set forth in 42 U.S.C. § 1988.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter an award in his favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of costs, interest, and attorney fees.

Respectfully Submitted,
CHRISTOPHER TRAINOR & ASSOCIATES

s/ Christopher J. Trainor
CHRISTOPHER J. TRAINOR (P42449)
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Dated: June 13, 2023
CJT/jaa

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DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, **KIMBEL DOUGLAS**, by and through his attorneys, CHRISTOPHER TRAINOR & ASSOCIATES, and hereby makes a Demand for Trial by Jury in the above-captioned matter.

Respectfully Submitted,
CHRISTOPHER TRAINOR & ASSOCIATES

s/ Christopher J. Trainor

CHRISTOPHER J. TRAINOR (P42449)

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